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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/620,010	07/15/2003	Eric Thompson	TH04US	8604
	7590	03/26/2004	EXAMINER	
J. Michael Neary Neary Law Office 542 SW 298th Street Federal Way, WA 98023			MARSH, STEVEN M	
			ART UNIT	PAPER NUMBER
			3632	

DATE MAILED: 03/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/620,010

Applicant(s)

THOMPSON, ERIC

Examiner

Steven M Marsh

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☒ Claim(s) 10 and 11 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This is the first office action for U.S. Application 10/620,010 for a Toolless Locking Mount filed by Eric Thompson on July 15, 2003.

#### ***Claim Objections***

Claim 11 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 10. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

#### ***Double Patenting***

Claim 8 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,592,088 B2 to Thompson. Although the conflicting claims are not identical, they are not patentably distinct from each other because the '088 patent claims all of the subject matter of the current claim 8. Claim 8 excludes a spring inside the top cap and the upright, but the claim all of the other subject matter is disclosed in the original claim.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 and 15-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 recites the limitation "said other surface" in the second from the last line of page 1 of the preliminary amendment. There is insufficient antecedent basis for this limitation in the claim. Claim 15 recites the limitation "moving said of said base into firm contact with said object". It is unclear what Applicant is claiming, therefore claims 15-17 have not been searched on their merits.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1, 2, and 4-7 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 4,779,180 to Ruiz. Ruiz discloses a mounting mechanism with a base that has a face (3, the front of 10, and at 9) with surfaces that can engage two non-parallel outside surfaces of an object. There is a top (5) pivotally mounted on the base to rotate over the base and lie on a plane orthogonal to the surfaces to engage the upper surface of the object. The top locks into an open position over the face where it swings clear of an angled recess and a closed position over the face where it swings over the recess, and the inwardly opened angled portion has inwardly facing surfaces. The base could be of a lower profile than the object and the top is secured to the base against

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separation therefrom, whereby the top remains connected to the base in normal operation. There is also a clamping mechanism (9) to establish firm contact between the base and object whereby the pressure of the mechanism is adjusted by tightening a clamping device (tightening the spring results in greater pressure).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ruiz in view of U.S. Patent 4,332,499 to Stiicheli. Ruiz does not disclose a detent for releasably holding the top cap in an open or closed position. Stiicheli discloses a joint with a support portion (20) and a top portion that rotates with respect to the support portion. The top portion has detent means (26 and 27) for engaging recesses of the support portion to lock the top portion into place. It would have been obvious to one of ordinary skill in the art at the time of the present invention to have provided a detent means in the top portion taught by Ruiz and an aperture in the support (or mounting) portion, as taught by Stiicheli, for the purpose of providing a means for locking the top into a closed position.

Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ruiz in view of U.S. Patent 5,369,549 to Kopp et al. Ruiz does not disclose four

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uprights, nor does it disclose faces with two intersecting vertical planes for engaging the outside corners of the object. Kopp et al. discloses corner supports for an object with the supports having an angled recess on upright surfaces, facing a space for the object, defined by two intersecting vertical planes for engaging corners of the object to prevent lateral movement of the object. It would have been obvious to one of ordinary skill in the art at the time of the present invention to have utilized upright faces with intersecting vertical surfaces as the face for the base taught by Ruiz, as taught by Kopp et al., for the purpose of providing a means to further restrict lateral movement of the object that is secured.

Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ruiz in view of Kopp et al., and in further view of Stiicheli. Ruiz in view of Kopp et al. does not disclose a detent for releasably holding the top cap in an open or closed position. Stiicheli discloses a joint with a support portion (20) and a top portion that rotates with respect to the support portion. The top portion has detent means (26 and 27) for engaging recesses of the support portion to lock the top portion into place. It would have been obvious to one of ordinary skill in the art at the time of the present invention to have provided a detent means in the top portion taught by Ruiz in view of Kopp et al. and an aperture in the support (or mounting) portion, as taught by Stiicheli, for the purpose of providing a means for locking the top into a closed position.

Claims 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ruiz. Ruiz discloses the method of securing an article to a supporting surface by inserting the article into the space between the mounts, which are attached to a

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supporting surface. The upstanding bases have angled recesses and the article is inserted between the mounts, rotating the top cap on each mount from an open position to a closed position over the article, to capture the article between the top cap and the supporting surface to prevent vertical movement of the article away from the supporting surface. To remove the article the top cap is rotated from the closed position to an open position to clear the angled portion and allow lifting of the article. A spring is compressed when pivoting the top cap to allow the cap to rotate to the open position to allow the article to be lifted out for quick removal. Ruiz discloses the use of three mounts, rather than four, but discloses that a plurality can be used. It would have been obvious to one of ordinary skill in the art at the time of the present invention to have utilized four mounts, rather than three, as a matter of design preference, dependent on the shape of the object to be supported.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ruiz in view of U.S. Patent 5,438,868 to Holden et al. Ruiz does not disclose polyurethane on the inward surfaces to improve the grip on the article. Holden et al. discloses a inwardly facing recess with polyurethane grips (248) on opposing arms for gripping an article. It would have been obvious to one of ordinary skill in the art at the time of the present invention to have provided polyurethane grips on the surfaces taught by Ruiz, as taught by Holden et al., for the purpose of improving the grip of the surfaces on the article.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent 3,049,323 to Peterka

U.S. Patent 3,590,458 to Day

U.S. Patent 4,190,157 to Chatham

U.S. Patent 6,212,918 B1 to Kravtin

U.S. Patent 3,653,236 to Kerr

U.S. Patent 3,785,185 to Kerr

U.S. Patent 5,170,982 to Schultheis et al.

U.S. Patent 6,034,867 to Seo


The above patents all disclose various types of mounts.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Marsh whose telephone number is (703) 305-0098. The examiner can normally be reached on Monday-Friday from 8:00AM to 4:30 PM. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3597.

*SM*

Steven Marsh

March 21, 2004

  
ANITA KING  
PRIMARY EXAMINER